

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION

JEFFREY CLAYTON, #70882

v.

CHRISTOPHER EPPS

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PETITIONER

CAUSE NO. 1:07CV903 LG-JMR

RESPONDENT

ORDER OF DISMISSAL

This cause is before the court, *sua sponte*, after the Petitioner failed to respond to the Court's August July 18, 2007 order requiring Petitioner to file a written response on or before August 2, 2007 specifically stating whether he wished to pursue or dismiss the case.¹ Petitioner was admonished that his failure to advise the Court of a change of address or failure to timely comply with the order would be deemed a purposeful delay and a contumacious act by the Petitioner, possibly resulting in dismissal of the case without further notice. *See* Order dated July 18, 2007, Docket Entry No. 5.

Fed. R. Civ. P. 41(b) provides that "[f]or failure of the plaintiff to prosecute or to comply with these rules or any order of court, a defendant may move for dismissal of an action or of any claim against the defendant." The Court may also *sua sponte* dismiss the action for failure to prosecute or for failure to comply with a court order. *Larson v. Scott*, 157 F.3d 1030, 1031 (5th Cir. 1998). The Petitioner has failed to prosecute this case and failed to comply with this Court's orders by failing to respond to the July 18, 2007 order. The Court is therefore of the opinion that the Petition should be dismissed pursuant to FED. R. CIV. P. 41(b).

IT IS THEREFORE ORDERED AND ADJUDGED that this case is **DISMISSED** pursuant to FED. R. Civ. P. 41(b).

SO ORDERED AND ADJUDGED this the 21st day of August, 2007.

s/ Louis Guirola, Jr.
LOUIS GUIROLA, JR.
UNITED STATES DISTRICT JUDGE

¹On July 13, 2007, Petitioner filed a notice of voluntary dismissal. On the same date Petitioner sent an e-mail message to the Clerk of Court indicating that he may pursue his claim. Based upon the conflicting docket entries the magistrate judge entered a show cause order.